

SECTION H – LEAD BASED PAINT

(Detailed Instructions and Information Required to perform activities under these programs can be obtained from the CDBG Office)



Grantees who are doing any of the following types of activities are strongly recommended to have completed additional HUD-sponsored, State-sponsored, or privately sponsored training relevant to the new HUD Lead Based Paint regulations before commencing any action. Familiarity with 24 CFR Part 35, et al., LBP Final Rule, published September 15, 1999 is mandatory.

- **Renter or Owner-occupied Residential Rehabilitation**
- **Tenant Based Rental Assistance**
- **Special Needs Housing Programs including Acquisition,**
- **Leasing, Support Services, and Operations Assistance**

1. OVERVIEW

Title X of the Housing and Community Development Act of 1992 contains the Residential Lead-Based Paint Hazard Reduction Act. Sections 1012 and 1013 of that Act implement the new HUD Lead-Based Paint requirements. On September 15, 1999 HUD published a Final Regulation, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazard in Federally Owned Residential Property and Housing Receiving Federal Assistance." The purpose of the regulation is to protect young children from lead-based paint hazards in housing that is either receiving assistance from the Federal government or is being sold by the government. The regulation establishes procedures for evaluating whether a hazard may be present, controlling or eliminating the hazard, and notifying occupants of what was found and what was done in such housing

This new regulation consolidates all of HUD's existing regulations in one part of the Code of Federal Regulations (CFR) at 24 CFR Part 35 Attachment 1). The new regulation retains the existing fundamental requirement of repairing deteriorated paint, but it also controls the lead-contaminated dust associated with the presence of lead-based paint.

The most important change as a result of the New Rule is that the requirements are now based on the TYPE OF ACTIVITY that an organization is undertaking rather than the PROGRAM FUNDING SOURCE.

2. PROGRAMS AND ACTIVITIES AFFECTED BY THE NEW RULE

HUD-CPD Programs affected by the new regulation:

**Community Development Block Grant program (CDBG)
HOME Investment Partnership Program (HOME)
Emergency Shelter Grants (ESG)
Housing Opportunities for Persons With AIDS (HOPWA)
Shelter Plus Care (S+C)
Supportive Housing Program (SHP – not presently operated in Utah)
Youthbuild (not presently operated in Utah)**

HUD Funded activities affected by the new regulation:

**Rehabilitation
Tenant-based rental assistance (Section 8), and
Acquisition, leasing, support services, and operations**

3. EFFECTIVE DATES – PROHIBITED METHODS

Prohibitions against using dangerous methods of removing paint took effect on November 15, 1999 and are listed below, but the main requirements of the regulation took effect on September 15, 2000. HUD then approved a waiver of this effective date for grant recipients operating any HUD funded housing related programs that are contracted through by the State DCED office based on a Statement of Inadequate Capacity and Transition Plan submitted by the State. The waiver date allowed the Utah programs to delay implementation until January 10, 2002.

As of November 15, 1999 – Prohibited Methods of LBP Removal

The following methods shall not be used to remove paint that is, or may be, lead-based paint:

- (a) Open flame burning or torching.*
- (b) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.*
- (c) Abrasive blasting or sandblasting without HEPA local exhaust control*
- (d) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.*
- (e) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when*
- (f) treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq.m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.*
- (g) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.*

4. HOW CAN I PREPARE FOR THE NEW REGULATION?

Begin by:

**reading and becoming familiar with HUD's new LBP regulations 24 CFR Part 35 (See Attachment 1),
registering staff for HUD, State, or other offered LBP training courses and encouraging contractors in your area to take the necessary training in order to qualify to do LBP rehabilitation work for your agency,
visiting the HUD Office of Lead Hazard Control's website at <http://www.hud.gov/lea/leadhome.html> frequently to find out about the latest information available regarding the new regulations,
revising program procedures and documents to implement the additional steps required,
developing methods and assembling materials to educate rental property owners, homeowners, and occupants of rental housing about the new requirements,
identifying and establishing working relationships with key partners, such as risk assessors and inspectors, clearance technicians, local contractors, and public health departments,
creating procedures for determining when it is more cost-effective to presume that lead hazards are present, and when it makes sense to evaluate a property.**

5. EXEMPT ACTIVITIES

What kinds of properties are exempt from the regulation?

- 1-Housing built after January 1, 1978,
- 2-Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there,
- 3-Zero Bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks,
- 4-Property that has been found to be free of lead-based paint by a certified lead-based paint inspector,
- 5-Property where all lead based paint has been removed,
- 6-Unoccupied housing that will remain vacant until it is demolished,
- 7-Non-residential property – (property not used for human residential habitation),
- 8-Any rehabilitation or housing improvement that does not disturb a painted surface,
- 9-Emergency repair actions to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage.
- 10-Emergency housing assistance (as for the homeless) unless the assistance lasts more than 100 days, in which case the rule does apply.

6. A SUMMARY OF THE REQUIRED ACTIVITIES TO ADDRESS LBP

The chart below provides a brief overview of the new lead-based paint requirements. Detailed explanations on how to comply with each of the required activities can be obtained from the CDBG Office if requested.

Category	Required Activities
1-Notification -	All of the following apply: Pamphlet Disclosure Notice of Lead Hazard Presumption/ Evaluation Notice of Lead Hazard Reduction
2-Lead Hazard Evaluation	One or more of the following may apply: Visual Assessment: * Paint Testing Risk Assessment (or Lead Hazard Screen)
3-Lead Hazard Reduction	One of more of the following may apply: Paint Stabilization Interim Controls (or Standard Treatments) Abatement The following always apply: Safe Work Practices Clearance
4-On-going Maintenance	This requirement may apply Inspection and maintain lead hazard reduction work
5-Response to Children with Environmental Intervention Blood Lead Level (EIBLL)	These requirements may apply. If they do, all of the following apply: Sharing and Comparing Information Rick Assessment Interim Controls or abatement Notices and Disclosure

7. GENERAL REQUIREMENTS FOR THE ABOVE ACTIVITIES

“1”- Notification (4 possible documents):

a) **Pamphlet:** Lead Hazard Information Pamphlet (Attachment 2): As under the current regulation grantees must provide residents and purchasers of a residential property the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved Equivalent. Grantees are not required to keep record of receipt of this document by recipients but they are encouraged to do so.

Grantees can obtain copies of the Pamphlet by: Single copies of the pamphlet are available in both English and Spanish by calling 1-800-424-LEAD. Multiple copies are available from the Government Printing Office (GPO) and may be ordered by calling the

GPO Order Desk at (202) 512-1800, Faxing (202) 512-2233, or writing to the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. Request the Publication by title, Protect Your Family From Lead in Your Home, and/or GPO stock #044-000-00507-9, or by downloading the pamphlet from www.epa.gov/opptintr/lead/leadpdf.pdf

b) *Disclosure:* Grantees should ensure that property owners provide purchasers and lessees with available information or knowledge regarding the presence of LBP and LBP hazards prior to selling or leasing a residence (Attachment 3).

c) *Notices for Lead Hazard Evaluation and Reduction Activities:* Under the new regulation, a grantee must provide or post a notice no later than 15 days after a lead hazard evaluation report has been received and LBP or LBP hazards found (Attachment 1c).

d) *Notice of Hazard Reduction Activity.* Under the new regulation, a grantee must provide or post a notice of lead hazard reduction activities no later than 15 days after the lead hazard reduction activities have been completed (Attachment 4).

“2”- Lead Hazard Evaluation:

a) Lead hazard evaluation methods involve an examination of a dwelling to check for lead based paint hazards.

b) **Under the new regulation, there is a requirement for lead hazard evaluation for every activity.** Evaluation methods include visual assessment, paint testing, and risk assessment. A visual assessment can be done by a Housing Quality Standards (HQS) inspector with a public housing authority using HQS forms (Attachment 5) or by an individual who has completed the Visual Assessment Course offered on the HUD website at www.hud.gov/dgi-bin/hud.pl.

“3” - Lead Hazard Reduction:

a) Lead Hazard Reduction methods refer to specific types of treatments to control LBP hazards.

b) **Under the new regulation, there is a requirement for lead hazard reduction for every activity.** Lead hazard reduction methods include paint stabilization, interim controls, standard treatments, and abatement.

c) Nothing precludes the grantee from conducting additional lead hazard reduction measures beyond the minimum established for each activity.

“4” - Clearance:

a) Clearance involves a visual assessment and dust testing to determine if the area is safe for unprotected workers to enter, and is a safe place for young children to live.

b) It serves to check that work was completed and properly done.

c) If a unit fails clearance, it must be recleaned.

8. SETTING UP YOUR PROGRAM

A number of model documents have been created to assist grantees with the development of their programs (Attachment 6). Please review all those provided to see how they can be added to or included in your program to ensure that lead-based paint has been addressed adequately.

9. FAMILIARIZE YOURSELF WITH THE REQUIREMENTS BY ACTIVITY CHART.

The chart below has been reproduced for your review. It describes the HUD required activities necessary when operating Rehabilitation programs, Tenant Based Rental Assistance programs (TBRA), and Acquisition, Leasing, Special Services or Operation activities. Detailed explanations on how to comply with each of the required activities can be obtained from the CDBG Office.

Subpart of Rule/Type Program	Construction Period	Requirements
Project-Based Assistance (HUD Program)		
1. Multifamily property Receiving more than \$5,000 per unit per year	Pre-1978	<ul style="list-style-type: none">• Provisions of pamphlet.• Risk assessment.• Interim controls.• Notice to occupants.• Ongoing LBP maintenance and re-evaluation.• Response to EBL child.
2. Multifamily property – receiving less than or equal to \$5,000 per unit per year, and single-family properties.	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Visual assessment.• Paint stabilization.• Notice to occupants.• Ongoing LBP maintenance.• Response to EBL child.
Rehabilitation Assistance		
1. Property receiving less than or equal to \$5,000 per unit.	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Paint testing of surfaces to be disturbed, or presume LBP.• Safe work habits in rehab.• Repair disturbed paint.• Notice to occupants.
2. Property receiving more than \$5,000 and up to \$25,000.	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Paint testing of surfaces to be disturbed, or presume LBP.• Risk assessment.• Interim controls.• Notice to occupants.• Ongoing LBP maintenance if HOME or CILP.
3. Property receiving more than \$25,000 per unit.	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Paint testing of surfaces to be disturbed, or presume LBP.• Risk assessment.• Abatement of LBP hazards.• Notice to occupants.• Ongoing LBP maintenance.
Acquisition, Leasing, Support Services of Operation	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Visual Assessment.• Paint stabilization.• Notice to occupants.• Ongoing LBP maintenance.
Tenant-Based Rental Assistance	Pre-1978	<ul style="list-style-type: none">• Provision of pamphlet.• Visual Assessment.• Paint stabilization.• Notice to occupants.• Ongoing LBP maintenance.• Response to EBL child.

10. RECORD KEEPING

There are numerous records that grantees must keep to verify that they conducted the required lead hazard response activities.

- Lead Hazard Information Pamphlet. A record of the distribution of the lead hazard information pamphlet is recommended, but not required.

- Notification, evaluation, and reduction reports. The grantee must keep a copy of each notification, lead hazard evaluation report, lead hazard reduction documentation (such as job specifications), and clearance or abatement report for at least three years, or for such other period as specified in the program regulations.
- Ongoing Maintenance Records. Grantees must keep ongoing maintenance records and records of relevant building operations for use during reevaluations.
- Reporting to HUD. The grantee will provide a copy of any of the above records to HUD upon request.

FIGURE ?

HUD LEAD BASED PAINT

LEAD BASED PAINT OCCUPANT SURVEY

This form only needs to be completed and attached to the checklist if the project involves residential housing.

Please respond to each of the questions below:

	Yes	No
1-The project involves residential housing. If you respond "NO" you may stop here.	_____	_____
2-The housing was constructed before 1978. If you respond "NO" you may stop here.	_____	_____
3-The home is occupied by one of the following persons -a child or children under 6 years of age, -a pregnant woman or woman considered to be of child-bearing age (16-42 years) -children under 6 years of age spend more than 3hrs/day, 6hrs/wk, or 60hr/yr in the home If you respond "NO" you may stop here.	_____ _____ _____	_____ _____ _____
4-Rehabilitation construction is to be done that may impact a surface or soil containing lead. If you respond "NO" you may stop here. The occupant(s) must be provided with a HUD pamphlet and must sign a certificate of notification that must be maintained in their housing file.	_____	_____
5-There is peeling paint in the unit. If so, where? _____ _____	_____	_____

If you answered **YES** to questions 1-4 you must provide the occupant(s) with the HUD Pamphlet *Protect Your Family From Lead in Your Home* and have them sign the Certificate of Notification.